

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

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|-------------------------------|---|----------------------------------|
| LEE E. MOORE, |) | CASE NO. C-1-00-023 |
| |) | |
| Petitioner, |) | JUDGE DLOTT |
| |) | |
| vs. |) | MAGISTRATE JUDGE MERZ |
| |) | |
| BETTY MITCHELL, Warden |) | |
| |) | |
| Respondent. |) | <i>DEATH PENALTY CASE</i> |

PETITIONER'S MOTION TO EXTEND TIME TO COMPLETE DEPOSITIONS

Comes the Petitioner, by counsel, and moves the Court for an extension of time through December 31, 2003, within which to complete depositions which the Court has authorized in this case. As grounds, Petitioner states that he has made a good faith effort to complete the depositions within the original time period set by the Court but because of scheduling problems among counsel, and the absence of one witness from the State, he has been unable to complete all of the depositions within the time set by the Court.

MEMORANDUM IN SUPPORT

In its Order of June 23, 2003, (Doc. 93) this Court authorized Petitioner to go forward with depositions of state trial and appellate counsel, the mitigation specialist, a testifying psychologist, and the jury commissioner. Petitioner has completed all depositions except the deposition of Daniel James, lead counsel for Petitioner at his trial (whose deposition was continued in progress), and the deposition of Charles Stidham, the mitigation specialist. All other depositions have been completed.

The undersigned counsel has not been able to serve a subpoena on the mitigation specialist, Charles Stidham. Through the assistance of an investigator, counsel for Petitioner was able to locate the residence of Mr. Stidham but learned that Mr. Stidham was not staying at that residence. Eventually counsel for Petitioner was able to obtain a cell phone number and reach Mr. Stidham on October 14, 2003. Mr. Stidham would not disclose his out-of-state location. However, he did agree to make himself available for depositions. Mr. Stidham informed the undersigned counsel that he was unable to present himself in the state for depositions prior to November 28, 2003, the day after Thanksgiving. He also provided additional dates between December 26 and December 31, 2003, during which he would make himself available for depositions. He further agreed to accept service of a subpoena via e-mail.

Additionally, Petitioner began, but was unable to complete the deposition of Daniel James, Petitioner's lead trial at the original prosecution. The parties have agreed upon the date of December 3, 2003, to complete Mr. James deposition.

The undersigned counsel is in the process of obtaining dates for Mr. Stidham's deposition, that are convenient to counsel for Respondent and Petitioner and are within the available dates Mr. Stidham has provided to counsel. Accordingly, Petitioner respectfully requests an extension until December 31, 2003 within which to complete the discovery depositions previously authorized by this Court. The undersigned counsel has been informed by Charles Wille, Assistant Attorney General, that the Respondent has no objection to this extension to complete discovery.

Respectfully submitted,

/s/ Laurence E. Komp

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CERTIFICATION

I hereby certify that I have, this 31st day of October, 2003, mailed a copy of the foregoing pleading to the following attorneys of record:

Charles L. Wille, Esq.
Henry Appel, Esq.
Ohio Attorney General
State Office Tower
30 East Broad Street – 23rd Floor
Columbus, Ohio 43215-3428

/s/ Michael O'Hara

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